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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,706	06/19/2001	Patrick W. Breslin	12521-009	4055

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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,706

Applicant(s)

BRESLIN ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 30-42 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,15,16,18,19 and 23-25 is/are rejected.
- 7) ☒ Claim(s) 2-4,6-14,17,20-22 and 26-29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on July 13, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1,5,6,15,16,18,19, and 23-25 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,003,614 to Geer et al (Geer) in view of US Pat No 5,066,055 to Saitoh et al (Saitoh)

Regarding claims 1 and 23-25, Geer discloses a latching system base (11') and a closable member (12,13 and 14).

An elongated member (20) is secure to the closable member. The elongated member includes a first connector (19) and a fork member (21) secure to the elongated member.

A latch plate assembly is hingedly secure to the closable member (at 17). The assembly includes a handle (16) and a latch lever (16a) extending from the handle. The latch lever is in mechanical communication with the fork member (21).

However, Geer fails to disclose that the elongated member rotates. Geer discloses that the elongated member (20) is a pivot pin that mounts the connector to the closeable member and allows the connector (19) to rotate.

Saitoh teaches that it is well known in the art of latches to have a connector (12) having an elongated member (14) attached to the body as a one-piece member. The member (14) serves as a mounting member for the connector and also as a pivot for the connector.

It would have been obvious to one having ordinary skill in the art of latches at the time the invention was made to provide the elongated member described by Geer, as a one piece construction with the connector, as taught by Saitoh, since it is considered as a design consideration that will not affect the latch mechanism.

As to claim 5, Geer discloses that the fork member (21) includes a tube (22) having the forks extending therefrom (Figure 4).

As to claim 6, Geer illustrates that the latch lever (16a) includes an engaging member having at least one opposed knob extending therefrom (the end of 16a) and engaging at least one fork of the fork member (Figure 4).

Geer fails to disclose that the handle is made of aluminum. Geer discloses and illustrates that is made of metal. However, aluminum is a well-known material.

It would have been obvious to one having ordinary skill in the art t the time the invention was made to have the handle made of aluminum, in order to use the characteristics of the material in favor of the construction of the handle.

As to claim 16, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

As to claim 18, Geer discloses that the closable member (12,13 and 14) is adapted to engage the base (11').

As to claim 19, Geer discloses that the handle includes a handhold end (44 and 45) and a hinge end (connection of 16 and 16b), wherein the handholds end has a serration defined therein.

Allowable Subject Matter

4. **Claims 2,3,12,26 and 29 are objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4,6-11,13,14,17,20-22,27 and 28 would also be allowed because the claims depend from claims 2,3,12,26 and 29 respectively.

Response to Arguments

5. Applicant's arguments with respect to claims 1,5,6,15,16,18,19, and 23-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Art Unit: 3676

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo
AU 3676



BRIAN E. GLESSNER
PRIMARY EXAMINER

September 23, 2005